

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1405 Biosolids

SPONSOR(S): Tuck

TIED BILLS: IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Water Quality, Supply & Treatment Subcommittee		Curtin	Curtin
2) Agriculture & Natural Resources Appropriations Subcommittee			
3) Infrastructure Strategies Committee			

SUMMARY ANALYSIS

The majority of Florida's domestic wastewater is controlled and treated by centralized treatment facilities regulated by the Department of Environmental Protection (DEP). When domestic wastewater is treated, a byproduct accumulates in the wastewater treatment plant and must be removed so that the plant may continue operating properly. The byproduct is treated to produce a nutrient-rich product known as biosolids.

In Florida, biosolids are classified as "Class AA," "Class A," or "Class B." Although all biosolids classes have been treated to substantially reduce pathogens, the attractiveness of the biosolid to rodents, flies, mosquitoes, or other organisms capable of transporting infectious agents, and the amount of toxic metals in the biosolids, Class B biosolids receive the least amount of treatment. Class AA biosolids may be distributed and marketed like other commercial fertilizers with few further restrictions. In addition to being treated, biosolids are subject to regulatory requirements designed to protect human health and the environment.

The bill allows DEP, subject to appropriation, to provide grants from the wastewater grant program for projects that convert wastewater residuals to Class A or Class AA biosolids and requires that projects be prioritized by their cost-effectiveness and the overall environmental benefit of the project.

The bill prohibits DEP from authorizing land application site permits for Class B biosolids within the subwatershed or upstream subwatershed of certain impaired waterbodies unless the applicant can affirmatively demonstrate that particular nutrients in the biosolids will not increase nutrient loadings in the impaired subwatershed. The bill requires:

- The demonstration to be based on achieving a net balance between nutrient imports relative to exports on the permitted application site and requires exports to include only nutrients removed from the subwatershed through products generated on the permitted application site.
- New or renewed Class B biosolids land application site permits issued after July 1, 2023 within the subwatershed or upstream subwatershed of certain impaired waterbodies to meet the demonstration requirements by July 1, 2024.
- All land application site permits for Class B biosolids within the subwatershed or upstream subwatershed of certain impaired waterbodies to meet the demonstration requirements by July 1, 2025.
- DEP, beginning August 1, 2023, and each August 1 thereafter, to publish maps designating the subwatersheds of certain impaired waterbodies.
- DEP to reserve at least 15 percent of the funding made available each year for the Clean Water State Revolving Fund program for projects that convert wastewater residuals to Class A or Class AA biosolids during the year the funding is reserved.

The bill has an indeterminate fiscal impact on the state and local governments. See Fiscal Comments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Phosphorus and nitrogen are naturally present in water and are essential nutrients for the healthy growth of plant and animal life.¹ The correct balance of both nutrients is necessary for a healthy ecosystem; however, excessive nitrogen and phosphorus can cause significant water quality problems.²

Phosphorus and nitrogen are derived from natural and human-made sources.³ Human-made sources include sewage disposal systems (wastewater treatment facilities and septic systems), overflows of storm and sanitary sewers (untreated sewage), agricultural production and irrigation practices, and stormwater runoff.⁴ Excessive nutrient loads may result in harmful algal blooms, nuisance aquatic weeds, and the alteration of the natural community of plants and animals.⁵

Impaired Waters

The federal Clean Water Act establishes the framework to protect and restore the Nation's waters.⁶ Each state must establish water quality standards for waters within their borders and then develop a list of impaired waters that do not meet the established water quality standards and a list of threatened waters that may not meet water quality standards in the following reporting cycle.⁷

In order to plan and prioritize projects to protect and restore water quality, the Department of Environmental Protection (DEP) has sorted Florida's water resources into 29 major watersheds and organized those watersheds into 5 basin groups.⁸ A watershed is an area of land that contributes to the flow of water into a body of water⁹; it "sheds" water into the receiving body of water. Flowing water carries organic debris and dissolved organic matter that provide food and shelter for aquatic life, but it also carries pollutants such as fertilizers and pesticides over the land and into the receiving body of water.¹⁰

If DEP determines that any waters are impaired, the waterbody or segment must be placed on the verified list of impaired waters and a total maximum daily load (TMDL) must be calculated.¹¹ A waterbody or segment may be removed from the list at any time during the TMDL process if it attains water quality standards.¹² If DEP determines that a waterbody is impaired, but further study is needed

¹ U.S. Environmental Protection Agency (EPA), *The Issue* (last updated Aug. 11, 2022), <https://www.epa.gov/nutrientpollution/issue> (last visited March 18, 2023).

² *Id.*

³ *Id.*

⁴ EPA, *Nutrient Pollution, Sources and Solutions* (last updated Aug. 11, 2022), <https://www.epa.gov/nutrientpollution/sources-and-solutions> (last visited March 18, 2023).

⁵ EPA, *supra* note 1.

⁶ EPA, *Overview of Identifying and Restoring Impaired Waters under Section 303(d) of the CWA* (last updated Aug. 31, 2022), <https://www.epa.gov/tmdl/overview-identifying-and-restoring-impaired-waters-under-section-303d-cwa> (last visited March 18, 2023);

⁷ *Id.*; 40 C.F.R. § 130.7 (Following the development of the list of impaired waters, states must develop a total maximum daily load for every pollutant/waterbody combination on the list. A total maximum daily load is a scientific determination of the maximum amount of a given pollutant that can be absorbed by a waterbody and still meet water quality standards); Department of Environmental Protection (DEP), *Total Maximum Daily Loads Program* (last updated Dec. 6, 2022), <https://floridadep.gov/dear/water-quality-evaluation-tmdl/content/total-maximum-daily-loads-tmdl-program> (last visited March 18, 2023).

⁸ DEP, *Assessment Lists*, <https://floridadep.gov/dear/watershed-assessment-section/content/assessment-lists> (last visited March 17, 2023).

⁹ S. 403.031(18), F.S.

¹⁰ S. Shukla, *What is a Watershed?*, University of Florida IFAS Extension Ask IFAS (Dec. 2019), <https://edis.ifas.ufl.edu/publication/AE265> (last visited March 17, 2023).

¹¹ DEP, *supra* note 7; DEP, *Verified List Waterbody Ids (WBIDs)*, <https://geodata.dep.state.fl.us/datasets/FDEP::verified-list-waterbody-ids-wbids/about> (last visited March 18, 2023); and s. 403.067(4), F.S.

¹² S. 403.067(5), F.S.

to determine the causative pollutants or other factors contributing to impairment before the waterbody is placed on the verified list, the waterbody or segment will be placed on the statewide comprehensive study list.¹³

Wastewater Treatment and Biosolids

The majority of Florida's domestic wastewater is controlled and treated by centralized treatment facilities regulated by DEP. There are approximately 2,000 permitted domestic wastewater treatment facilities in Florida and those facilities have a total treatment capacity of over 2.7 billion gallons per day.¹⁴

When domestic wastewater is treated, a byproduct accumulates in the wastewater treatment plant and must be removed so that the plant may continue operating properly.¹⁵ The collected material is the solid, semisolid, or slurry residual material that is a byproduct of wastewater treatment processes.¹⁶

The byproduct is treated¹⁷ to produce a nutrient-rich product known as biosolids, which are useful as a soil conditioner and fertilizer, and which may then be applied to land.¹⁸ Recycling biosolids to soils benefits society and the environment for a number of reasons, including enhancing soil health, recycling nutrients, and putting to productive use residual solids from wastewater treatment, which is a vital public health service.¹⁹ However, biosolids are receivers of Per- and Polyfluoroalkyl Substances (PFAS).²⁰

As of 2019, DEP estimated that wastewater treatment facilities produced approximately 340,000 dry tons of biosolids each year, with two-thirds being beneficially used for land application or distributed and marketed as fertilizer and one-third being landfilled.²¹ Land application involves the spreading of biosolids on the soil surface or incorporating or injecting biosolids into the soil and it is conducted at "various sites including agricultural lands, forests, mine reclamation sites, and other disturbed lands, parks, and golf courses."²²

Regulation of Biosolids

In addition to being treated, biosolids are subject to regulatory requirements designed to protect human health and the environment.²³ Biosolids are classified at the federal level as "Class A" or "Class B" biosolids in terms of pathogen reduction requirements.²⁴ In Florida, there is a special "Class AA"

¹³ Section 403.067(2), F.S.; R. 62-303.150(1), F.A.C.

¹⁴ DEP, *General Facts and Statistics about Wastewater in Florida* (last updated April 20, 2022)

<https://floridadep.gov/water/domestic-wastewater/content/general-facts-and-statistics-about-wastewater-florida> (last visited March 18, 2023).

¹⁵ DEP, *Domestic Wastewater Biosolids* (last updated April, 20, 2022), <https://floridadep.gov/water/domestic-wastewater/content/domestic-wastewater-biosolids> (last visited March 18, 2023).

¹⁶ *Id.*; see also Britannica, *Sludge Treatment and Disposal*, <https://www.britannica.com/technology/wastewater-treatment/Sludge-treatment-and-disposal> (last visited March 18, 2023).

¹⁷ R. 62-640.200(49), F.A.C. ("Treatment" means the process of altering the character or physical or chemical condition of waste to prevent pollution of water, air, or soil, to safeguard the public health, or enable the waste to be beneficially used. Treatment includes blending, dewatering, and any process that alters the quality or quantity of the material for the purpose of meeting the requirements of this chapter. Treatment does not include storage of biosolids.")

¹⁸ EPA, *Basic Information About Biosolids*, <https://www.epa.gov/biosolids/basic-information-about-biosolids> (last visited March 17, 2023); DEP, *supra* note 14.

¹⁹ Water Environment Federation, *PFAS in Municipal Biosolids* (April, 2021 webcast), <https://learn.wef.org/course/view.php?id=17&pageid=197>.

²⁰ *Id.*

²¹ DEP, *Biosolids in Florida*, at 5 (2019), <https://www.florida-stormwater.org/assets/MemberServices/Conference/AC19/02%20-%20Frick%20To%20m.pdf#:~:text=Biosolids%20and%20Management%20in%20Florida%20Estimated%20Total%20Production,two-thirds%20are%20beneficially%20used%20and%20one-third%20is%20landfilled> (last visited March 18, 2023).

²² EPA, *Land Application of Biosolids* (last updated March 10, 2023), <https://www.epa.gov/biosolids/land-application-biosolids> (last visited March 18, 2023).

²³ DEP, *General Facts and Statistics about Wastewater in Florida*, *supra* note 14.

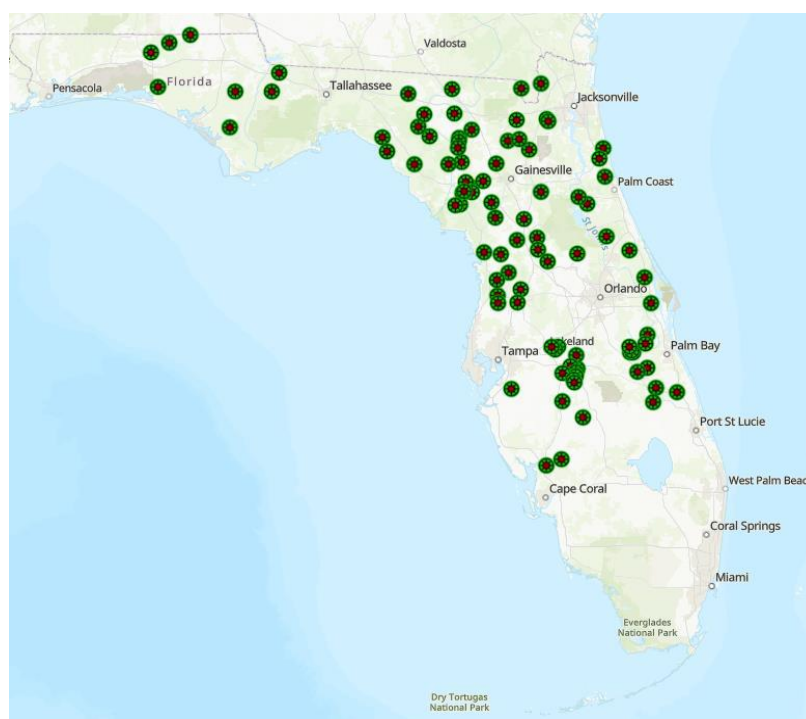
²⁴ 40 C.F.R. Part 503; see also EPA, *Land Application of Biosolids* (last updated March 10, 2023), <https://www.epa.gov/biosolids/land-application-biosolids> (last visited March 18, 2023).

designation for biosolids treated to the highest quality standard, which are distributed and marketed as fertilizer.²⁵

Although all biosolids classes have been treated to substantially reduce pathogen indicators below levels typically found in manure, Class B biosolids have the least.²⁶ Treatment of biosolids must reduce pathogens, the attractiveness of the biosolid to rodents, flies, mosquitoes, or other organisms capable of transporting infectious agents, and the amount of toxic metals in the biosolids.²⁷

Biosolids may be “appli[ed] to land in farming and ranching operations, forest lands, and public areas such as parks, or in land reclamation projects such as restoration of mining properties.”²⁸ Either Class A or Class B pathogen requirements and site restrictions must be met before biosolids may be land applied.²⁹ Class AA biosolids may be distributed and marketed like other commercial fertilizers with few further restrictions and, like other commercial fertilizers, they are primarily regulated by the Department of Agriculture & Consumer Services.³⁰

The following map depicts the land application sites in Florida where Class B biosolids are permitted and allowed to be applied following the development of a site-specific nutrient management plan (NMP).³¹



At the time of land application, there must be a minimum unsaturated soil depth of two feet between the depth of biosolids placement and the water table level.³² “Biosolids may not be applied on soils that have a seasonal high-water table less than [six] inches from the soil surface or within [six] inches of the

²⁵ R. 62-640.200(11), F.A.C.; *see also* National Biosolids Data Project, *Florida Biosolids* (last updated 2018), <https://www.biosolidsdata.org/florida> (last visited March 18, 2023).

²⁶ R. 62-640.200(10)-(12), F.A.C.; *see also* J. Hallas, C. Mackowiak, and A. Wilkie, *Florida Biosolids: Management and Land Application Rules* (Nov. 2019), University of Florida IFAS Extension.

²⁷ R. 62-640.600, F.A.C.

²⁸ DEP, *Domestic Wastewater Biosolids* (last updated April, 20, 2022), <https://floridadep.gov/water/domestic-wastewater/content/domestic-wastewater-biosolids> (last visited March 18, 2023).

²⁹ EPA, *A Plain English Guide to the EPA Part 503 Biosolids Rule*, p.30 (Sept. 1994), <https://www.epa.gov/biosolids/plain-english-guide-epa-part-503-biosolids-rule> (last visited March 19, 2023).

³⁰ R. 62-640.850, F.A.C.; *Id.*

³¹ DEP, *Wastewater Facility Regulation Map*, <https://www.arcgis.com/home/item.html?id=3a1f04a423784536b1ac94e361eaf206> (last visited March 18, 2023).

³² S. 403.0855(3)(a), F.S.

intended depth of biosolids placement, unless a department-approved [NMP] and water quality monitoring plan provide reasonable assurances that the land application of biosolids at the site will not cause or contribute to a violation of the state's surface water quality standards or groundwater standards."³³

DEP has promulgated rules to establish minimum requirements, including monitoring and reporting requirements, for the treatment, management, use, and disposal of biosolids.³⁴ In addition to wastewater treatment facilities, the rules are also applicable to applicers or distributors of biosolids or biosolids products, and to owners or operators of application sites which receive biosolids,³⁵ and include permit requirements for both treatment facilities and biosolids application sites.³⁶

Each permit application for a biosolids land application site must include a site-specific NMP.³⁷ There are many requirements for a NMP, including a description of how the NMP complies with any applicable basin management action plans (BMAPs) and with any applicable reasonable assurance plans (RAPs),³⁸ and the NMP must "[e]stablish specific rates of application of biosolids based on nitrogen and phosphorus as well as procedures to land apply biosolids and all other nutrient sources to each application zone."³⁹

A BMAP is a restoration plan developed for the watersheds and basins connected to impaired waterbodies that are included on DEP's verified list of impaired waterbodies (Verified List).⁴⁰ An impaired waterbody is one that does not meet applicable water quality standards,⁴¹ and a BMAP addresses the pollutant causing the impairment.⁴² Thirty-three BMAPs have been developed statewide.⁴³

Impaired waterbodies with plans that provide reasonable assurance that they will attain water quality standards may avoid placement on DEP's Verified List.⁴⁴ RAPs are adopted by order of the Secretary of DEP,⁴⁵ and they "may obviate the need to use limited state resources to . . . implement BMAPs."⁴⁶ Five reasonable assurance plans have been adopted.⁴⁷

Biosolids may only be applied to sites that are permitted by DEP and have a valid NMP.⁴⁸ Biosolids must be applied at rates established in accordance with the NMP and may be applied to a site only if all concentrations of minerals do not exceed established ceiling⁴⁹ and cumulative concentrations.⁵⁰

³³ *Id.*

³⁴ Ch. 62-640, F.A.C.

³⁵ R. 62-640.100(5)(b)-(c), F.A.C.

³⁶ R. 62-640.300(1), F.A.C.

³⁷ R. 62-640.500(a), F.A.C.

³⁸ R. 62-640.500(5)(c), F.A.C.

³⁹ R. 62-640.500(5)(f), F.A.C.

⁴⁰ S. 403.067(7)(a)1., F.S.; R. 62-303.100(1), F.A.C.

⁴¹ R. 62-300.200(7), F.A.C. ("Impaired water" shall mean a waterbody or waterbody segment that does not meet its applicable water quality standards as set forth in Chapters 62-302 and 62-4, F.A.C. . . . due in whole or in part to discharges of pollutants from point or nonpoint sources).

⁴² DEP, Division of Environmental Assessment and Restoration, *Guidance on Developing Restoration Plans as Alternatives to TMDLs – Assessment Category 4b and 4e Plans*, p. 2 (June 2015) <https://floridadep.gov/sites/default/files/4b4ePlansGuidance.pdf> (last visited March 1, 2023).

⁴³ Office of Economic & Demographic Research (EDR), *Annual Assessment of Florida's Water Resources: Quality*, p. 5 (2023), http://edr.state.fl.us/Content/natural-resources/2023_AnnualAssessmentWaterResources_Chapter4.pdf (last visited March 1, 2023).

⁴⁴ R. 62-303.600(2), F.A.C.

⁴⁵ EDR, *supra* note 43, at 29.

⁴⁶ *Id.* at 27.

⁴⁷ *Id.* at 29.

⁴⁸ R. 62-640.500, F.A.C.

⁴⁹ R. 62-640.700(5), F.A.C.

⁵⁰ R. 62-640.700(7), F.A.C.

Once a site is permitted, it is subject to monitoring, record-keeping, reporting, and notification requirements.⁵¹ The requirements are site-specific and may be increased or reduced by DEP based on: “the quality or quantity of wastewater or biosolids treated; historical variations in biosolids characteristics; industrial wastewater or sludge contributions to the facility; the use, land application, or disposal of the biosolids; the water quality of surface and ground water and the hydrogeology of the area; wastewater or biosolids treatment processes; and the compliance history of the facility or application site.”⁵²

Prohibitions on the Application of Biosolids

The application of biosolids is prohibited in certain areas. The Legislature banned the disposal of domestic wastewater biosolids within the Lake Okeechobee,⁵³ Caloosahatchee River,⁵⁴ and St. Lucie River⁵⁵ watersheds unless the applicant can affirmatively demonstrate that the nutrients in the biosolids will not add to nutrient loadings in the watershed. The prohibition against land application in these watersheds does not apply to Class AA biosolids that are distributed as fertilizer products.⁵⁶

The land application of Class A and Class B biosolids is also prohibited within priority focus areas⁵⁷ in effect for Outstanding Florida Springs if the land application is not in accordance with an NMP that has been approved by DEP.⁵⁸ The NMP must “[e]stablish the rate at which all biosolids, soil amendments, and nutrient sources at the land application site can be applied to the land for crop production, while minimizing the amount of pollutants and nutrients discharged into groundwater or waters of the state.”⁵⁹

A municipality or county may regulate the land application of Class A or Class B biosolids if the regulation was adopted prior to November 1, 2019.⁶⁰ Such regulations are valid until repealed by the municipality or county.⁶¹

Wastewater Grant Program

The Clean Waterways Act (Act), enacted in 2020, is comprehensive legislation that requires certain state agencies, local governments, and private sector entities to improve water quality through stricter regulations and close monitoring of Florida’s water resources.⁶² The Act includes a wide range of water quality protection provisions, one of which is a wastewater grant program.⁶³

The wastewater grant program allows DEP, in consultation with the Water Management Districts, to award grants to governmental entities for the following projects: to retrofit onsite sewage treatment and disposal systems (OSTDSs) to upgrade them to enhanced nutrient-reducing OSTDSs; to construct, upgrade, or expand facilities to provide advanced waste treatment; and to connect OSTDSs to central sewer facilities.⁶⁴

The projects must individually or collectively reduce excess nutrient pollution and they must be located within of one three areas:⁶⁵ a BMAP; a RAP; or a rural area of opportunity (RAO). A RAO is a

⁵¹ R. 62-640.650, F.A.C.

⁵² *Id.*

⁵³ S. 373.4595(3)(b)16., F.S.

⁵⁴ S. 373.4595(4)(b)5., F.S.

⁵⁵ S. 373.4595(4)(d)5., F.S.

⁵⁶ *Id.*; Ss. 373.4595(3)(b)16. and 373.4595(4)(b)5., F.S.; *see also* R. 62-640.850, F.A.C.

⁵⁷ S. 373.802(5), F.S. (“‘Priority focus area’ means the area or areas of a basin where the Floridan Aquifer is generally most vulnerable to pollutant inputs where there is a known connectivity between groundwater pathways and an Outstanding Florida Spring, as determined by the department in consultation with the appropriate water management districts, and delineated in a basin management action plan.”)

⁵⁸ S. 373.811(4), F.S.

⁵⁹ *Id.*

⁶⁰ S. 403.0855(6), F.S.

⁶¹ *Id.*

⁶² Ch. 2020-150, Laws of Fla.

⁶³ S. 403.0673, F.S.

⁶⁴ S. 403.0673(1) and (4), F.S.

⁶⁵ S. 403.0673(1), F.S.

community or region of communities which are uniquely distressed and are priority assignments for the Rural Economic Development Initiative.⁶⁶ The Governor may designate no more than three RAOs.⁶⁷

Each grant for a wastewater project requires a minimum 50 percent local match, but DEP may waive the match for projects within an area designated as a RAO.⁶⁸ DEP submits an annual report that identifies the projects funded through the grant program to the Governor and the Legislature.⁶⁹

The wastewater grant program is funded by documentary stamp tax revenues.⁷⁰ After required distributions from documentary stamp tax revenues are disbursed,⁷¹ an amount equaling 5.4175 percent of the remainder is paid into the Water Protection and Sustainability Program Trust Fund to be used to fund wastewater grants.⁷² The Office of Economic and Demographic Research estimates that the distribution for wastewater grants in fiscal year 2023-2024 will be \$95.2 million.⁷³

Clean Water State Revolving Fund

The Clean Water State Revolving Fund (CWSRF) program is a joint federal and state program administered in Florida by DEP through the State Revolving Fund Program,⁷⁴ which provides low-interest loans for planning, designing, and constructing water pollution control facilities.⁷⁵ DEP receives requests throughout the year for funding of wastewater, stormwater, and certain other projects that are eligible for funding pursuant to the federal Clean Water Act.⁷⁶ DEP establishes a list of projects in order of priority for funding at the beginning of each fiscal year and, as funds are available, each quarter thereafter.⁷⁷

The CWSRF program may fund a wide variety of infrastructure projects, such as: construction of publicly owned treatment works; decentralized wastewater treatment systems; stormwater management, reduction, treatment, or recapture; and watershed pilot projects.⁷⁸ EPA guidance indicates CWSRF-eligible centralized wastewater treatment projects and energy conservation projects include biosolids drying/dewatering and energy conversion equipment.⁷⁹

Effect of the Bill

The bill allows DEP, subject to appropriation, to provide grants from the wastewater grant program for projects that convert wastewater residuals to Class A or Class AA biosolids and requires that projects be prioritized by their cost-effectiveness and the overall environmental benefit of the project.

⁶⁶ S. 288.0656(2)(d) and (7)(a), F.S.

⁶⁷ S. 288.0656(7)(a), F.S.

⁶⁸ S. 403.0673(3), F.S.

⁶⁹ S. 403.0673(5), F.S.

⁷⁰ S. 201.15(4)(h), F.S. Documentary stamp tax revenues are collected under ch. 201, F.S., which requires an excise tax to be levied on two classes of documents: deeds and other documents related to real property, which are taxed at the rate of 70 cents per \$100; and certificates of indebtedness, promissory notes, wage assignments, and retail charge account agreements, which are taxed at 35 cents per \$100. See ss. 201.02(1)(a) and 201.08(1)(a), F.S.

⁷¹ S. 201.15(4), F.S. (The required distributions are to the Land Acquisition Trust Fund and the service charge representing the estimated pro rata share of the cost of general government paid from the General Revenue Fund.)

⁷² S. 201.15(4)(h), F.S.

⁷³ Office of Economic and Demographic Research, Conference Results (2022), <http://edr.state.fl.us/Content/conferences/docstamp/docstampresults.pdf>.

⁷⁴ S. 403.1835(1), F.S.

⁷⁵ DEP, *CWSRF Program* (last updated June 30, 2022), <https://floridadep.gov/wra/srf/content/cwsrf-program> (last visited March 18, 2023).

⁷⁶ S. 403.1835(1), F.S.; *Id.*

⁷⁷ DEP, *supra* note 76.

⁷⁸ EPA, *Clean Water State Revolving Fund, About the Clean Water State Revolving Fund* (last updated March 11, 2023), <https://www.epa.gov/cwsrf/about-clean-water-state-revolving-fund-cwsrf#eligibilities> (last visited March 18, 2023).

⁷⁹ EPA, *Overview of Clean Water State Revolving Fund Eligibilities* (May 2016), https://www.epa.gov/sites/default/files/2016-07/documents/overview_of_cwsrf_eligibilities_may_2016.pdf.

The bill prohibits DEP from authorizing land application site permits for Class B biosolids within the subwatershed of a waterbody that is designated as impaired for nitrogen or phosphorus or within any upstream subwatershed hydrologically connected to a waterbody that is designated as impaired for nitrogen or phosphorus unless the applicant can affirmatively demonstrate that the phosphorus and nitrogen in the biosolids will not increase nutrient loadings in the impaired subwatershed. The bill requires the demonstration to be based on achieving a net balance between nutrient imports relative to exports on the permitted application site and requires exports to include only nutrients removed from the subwatershed through products generated on the permitted application site.

The bill requires new or renewed Class B biosolids land application site permits issued after July 1, 2023 within the subwatershed of a waterbody designated as impaired for nitrogen or phosphorus or within any upstream subwatershed hydrologically connected to a waterbody that is designated as impaired for nitrogen or phosphorus to meet the demonstration requirements by July 1, 2024.

The bill requires all land application site permits for Class B biosolids within the subwatershed of a waterbody designated as impaired for nitrogen or phosphorus or within any upstream subwatershed hydrologically connected to a waterbody that is designated as impaired for nitrogen or phosphorus must meet the demonstration requirements by July 1, 2025.

The bill requires DEP, beginning August 1, 2023, and each August 1 thereafter, to publish maps designating the subwatersheds of impaired waterbodies subject to this subsection.

The bill requires DEP to reserve at least 15 percent of the funding made available each year for the Clean Water State Revolving Fund program for projects that convert wastewater residuals to Class A or Class AA biosolids during the year it is reserved.

B. SECTION DIRECTORY:

Section 1. Amends s. 403.0673, F.S., related to a wastewater grant program.

Section 2. Amends s. 403.0855, F.S., related to biosolids management.

Section 3. Amends s. 403.1835, F.S., related to water pollution control financial assistance.

Section 4. Provides an effective date of July 1, 2023.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

See Fiscal Comments.

2. Expenditures:

See Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The bill may have an indeterminate fiscal impact on the state and local governments. The bill may reduce the allowable application of Class B biosolids to land; if such activities are permitted, the bill will increase the regulations that apply to the application.

The bill authorizes the use of the Wastewater Grant Program for projects that convert wastewater residuals to Class A or Class AA biosolids. In addition, the bill requires DEP to reserve at least 15 percent of the funding made available each year for the Clean Water State Revolving Fund program for projects that convert wastewater residuals to Class A or Class AA biosolids during the year it is reserved.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

Not applicable.